

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**PERMIT FOR DIVERSION AND USE OF WATER**

**PERMIT 20844**

Application 30023 of Thomas P. Kenefick and Linda O. Kenefick,

103 Acacia, Belvedere, CA 94920

filed on October 22, 1991, has been approved by the State Water Resources Control Board  
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Unnamed Stream

Napa River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Projected Section	Township	Range	Base and Meridian
South 1,900 feet and East 1,600 feet from NW corner of projected Section 31	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	31	9N	6W	MD

County of Napa

3. Purpose of use:	4. Place of use:	Projected Section	Township	Range	Base and Meridian	Acres
Fire Protection						
Recreation	Channel Reservoir within SE $\frac{1}{4}$ of NW $\frac{1}{4}$	31	9N	6W	MD	
Heat Control Frost Protection Irrigation	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	31	9N	6W	MD	10
	NW $\frac{1}{4}$ of NW $\frac{1}{4}$	31	9N	6W	MD	5
	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	31	9N	6W	MD	15
	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	31	9N	6W	MD	25
					Total	55

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 20 acre-feet per annum to be collected from December 1 of each year to May 15 of the succeeding year. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall be prosecuted with reasonable diligence and shall be completed by December 31, 2001. (0000008)

8. Complete application of the water to the authorized use shall be made by December 31, 2005. (0000009)

9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)

10. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

11. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust. (0000012)

12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1)adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2)the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

13. The State Water Resources Control Board reserves jurisdiction to impose conditions to conform this permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing. (0000020)

14. Permittee shall install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. Before starting construction, permittee shall submit plans and specifications of the outlet pipe to the Chief of the Division of Water Rights for approval. Before storing water in the reservoir, permittee shall furnish evidence which substantiates that the outlet pipe has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050043)

15. Permittee shall install and properly maintain in each reservoir a staff gage, satisfactory to the State Water Resources Control Board, for the purpose of determining water levels in the reservoirs.

Permittee shall record the staff gage readings on or about October 15 of each year. Such readings shall be supplied to the State Water Resources Control Board with the next progress report submitted to the Board by permittee.

The State Water Resources Control Board may require the release of water which cannot be verified as having been collected to storage prior to October 15 of each year.

Permittee shall allow August Huneeus and Valeria Huneeus and all successors in interest, or a designated representative, reasonable access to each reservoir for the purpose of verifying staff gage readings and determining water levels in the reservoirs. (0070047)  
(0100047)

16. Whenever the prior storage rights of Augustin Huneeus and Valeria Huneeus (under License 7083 issued pursuant to Application 15774 and Permit 20662 issued pursuant to Application 29775) are not satisfied by July 15 and March 15, respectively of any year, water collected to storage under this permit during the current collection season shall be immediately released at the maximum practicable rate to the extent necessary to satisfy said prior downstream storage rights. Permittee shall not be obligated to release water in the reservoir(s) below the previous October 15 staff gage reading unless permittee has withdrawn water from the reservoir(s) for consumptive purposes since October 15. (0000051)

17. In accordance with Section 1601, 1603, and/or Section 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted under this permit until permittee has entered into a stream or lake alteration agreement with the California Department of Fish and Game and/or the Department has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the permittee. (0000063)

18. Diversion of water between March 15 and May 15 is subject to control under a water distribution program administered by the State Water Resources Control Board or by the Department of Water Resources. Whenever such a program is in effect at the project location, permittee shall comply with the following:

A. Diversion after March 15 is contingent upon participation in the water distribution program by permittee.

B. Diversion after March 15 shall be solely to replenish water stored prior to March 15 unless otherwise authorized by the Watermaster in charge of the distribution program.

C. Prior to making diversions after March 15, permittee shall install and maintain devices, satisfactory to the Watermaster, which are capable of measuring the instantaneous rate of diversion and the total amount of water diverted during participation in the distribution program.

D. Permittee's participation in any water distribution program required under the terms of this permit shall be evidenced by returning the information sheet distributed prior to the frost season and paying costs as apportioned at the end of the season.

E. The water distribution program required under this permit may be revised periodically by the State Water Resources Control Board provided that the program shall be substantially consistent with terms of any water distribution program imposed on similarly situated users by the Napa County Superior Court.

During the period between March 15 and May 15, water may be collected to storage under this permit only when there are no restrictions imposed by the watermaster on diversion from the Napa River.

(0000085)

19. This permit is specifically subject to the prior rights under appropriations issued pursuant to licensed Application 15774 and permitted Application 29775, and to any other legally held prior right of Augustin Huneeus and Valeria Huneeus; to the prior rights under appropriations issued pursuant to licensed Applications 631, 25547, and 25448, and to any other legally held prior right of Wine World Estate Company; and to the prior rights under appropriations issued pursuant to licensed Applications 22711, 22949, 24591A and 24591B, and permitted Application 28791, and to any other legally held prior right of Dr. Lewis G. Carpenter, Jr.

**This permit is issued and permittee takes it subject to the following provisions of the Water Code:**

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: **JUNE 10 1996**

**STATE WATER RESOURCES CONTROL BOARD**

*Roger Johnson*  
for Chief, Division of Water Rights